

REQUEST FOR COUNCIL ACTION

MEETING

DATE: 8-18-03

207

AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. E-7
ITEM DESCRIPTION: Type III, Phase II Conditional Use Permit request #02-46, by West 80 Development, LLC. The applicant is requesting approval for an excavation permit to operate a Quarry on property located north of 48 th St. SW and west of T.H. 63. The applicant proposes to lower the existing hill on the property by approximately 60 feet and to export over 800,000 cubic yards of material within two to nine years.		PREPARED BY: Brent Svenby, Planner

August 12, 2003

NOTE: The applicant's CuP report was sent separately to the Council due to its length.

City Planning and Zoning Commission Recommendation:

On July 23, 2003 the City Planning and Zoning Commission held a public hearing to consider Conditional Use Permit #02-46 and Variance(s) #03-16. The Commission is recommending approval of the Conditional Use Permit for a quarry operation, which will remove the existing hill on the property. The Commission approved the variances requested.

Mr. Quinn moved to recommend approval of Type III, Phase II Conditional Use Permit #02-46 by West 80 Development, LLC with the findings and staff-recommended conditions as revised. Ms. Petersson seconded the motion. The motion carried 7-0.

- Prior to excavation, the applicant shall:**
 - Grading, Drainage and Erosion Control Plans must be approved by the City;
 - The applicant shall submit a Blasting Plan to the City, in compliance with Section 62.1107, 1), m), prior to beginning the excavation;
 - A bond or other form of surety acceptable to the City Attorney shall be provided in an amount determined by the City Engineer sufficient to carry out the restoration of the mined area, and to control dust on haul roads if not adequately handled by the Applicant. Said surety is to be used by the City for restoration of the sit, and/or dust control measures, in the event the Owner fails to fulfill its obligations regarding restoration and/or dust control.
 - Submit a revised reclamation plan that has the required plantings all within the applicant's property (some plantings are shown on land owned by MnDOT) as well as identify adequate vehicular access to the proposed stormwater detention ponds. The plan shall also be consistent with the roadway alignment approved with the GDP.
- Encroachment into the setback area is approved as long as the grading reclamation grades match the proposed reconstructed grade elevations of the TH 63 ramp and 48th St. SW profile and cross-sections as specified on the approved OSM and the TH 63 Layout Plan.
- The reclamation/restoration grades shall match the proposed reconstructed grade elevations of TH 63 and ramp, and the 48th ST. SW profile and cross-sections as specified on the City approved Official Street Map #12, and the TH 63 Layout Plan.
- The applicant shall execute a contribution agreement to address the Owner's obligations regarding Substandard Street Reconstruction charges for the frontage of 48th Street SW. In addition, the Agreement will include the Owner's obligations regarding the Capacity Component of the Transportation Improvement District charges that will be applicable to the development of individual lots within the industrial/commercial subdivision that will be developed one the mining activity is complete.
- A TIR shall be completed, if it differs from the land use and trip generation assumptions used in the TH 63 Traffic Study, to evaluate the impacts on the surrounding roadway, specifically TH 63 and 48th Street. Traffic improvements, including but not limited to, turn lanes, signage and warning lights at the proposed haul road access point to 48th St. SW.

COUNCIL ACTION: Motion by: _____ Second by: _____ to: _____

6. Stormwater Management must be provided on-site via City approved on-site stormwater detention facilities. Adequate vehicular access shall be provided to the proposed stormwater detention ponds.
7. *The applicant shall obtain approval of the haul road and temporary access permit for 48th Street SW from the Public Works Department prior to grading activities on the property. Evidence shall be provided that the applicant has rights across the property to the north. The applicant would also need to obtain a temporary access permit for the use of 40th Street SW from the Public Works Department.*
8. *The applicant is obligated for the cost to amend Official Street Map #12 to accommodate the alignment shown on the grading plan.*
9. *Approval of this permit is contingent upon the applicant obtaining a permit from MnDOT to work within the right-of-way and the alterations to the approved 48th Street Interchange Plans. If the permit is not approved by MnDOT, the applicant shall submit a revised plan to the Planning Department and Public Works Department for approval.*
10. *Approval of this permit is contingent upon the applicant obtaining a Wetland Replacement Plan for the wetlands being disturbed on property. Replacement plan approval shall be obtained prior to any grading activity occurring on the property. If the Replacement Plan is not approved by the Local Government Unit, the applicant shall revise the grading plan to avoid the wetland area.*
11. *Approval of this permit shall expire December 1, 2012, unless permit approval is extended as provided in Section 62.1110, 7 of the Rochester Zoning Ordinance and Land Development Manual. All reclamation activities must be complete prior to the date of expiration, consistent with reclamation standards of the Rochester Zoning Ordinance and Land Development Manual.*
12. *The owners shall dedicate a 30-foot wide public utility easement along the easterly line of the property, concurrent with the approval of the CUP, to accommodate the trunkline sanitary sewer relocation. The owner shall address, prior to any grading activity occurring on the property, the extra depth that will result based on the plan to place fill in the easement area.*

Council Action Needed:

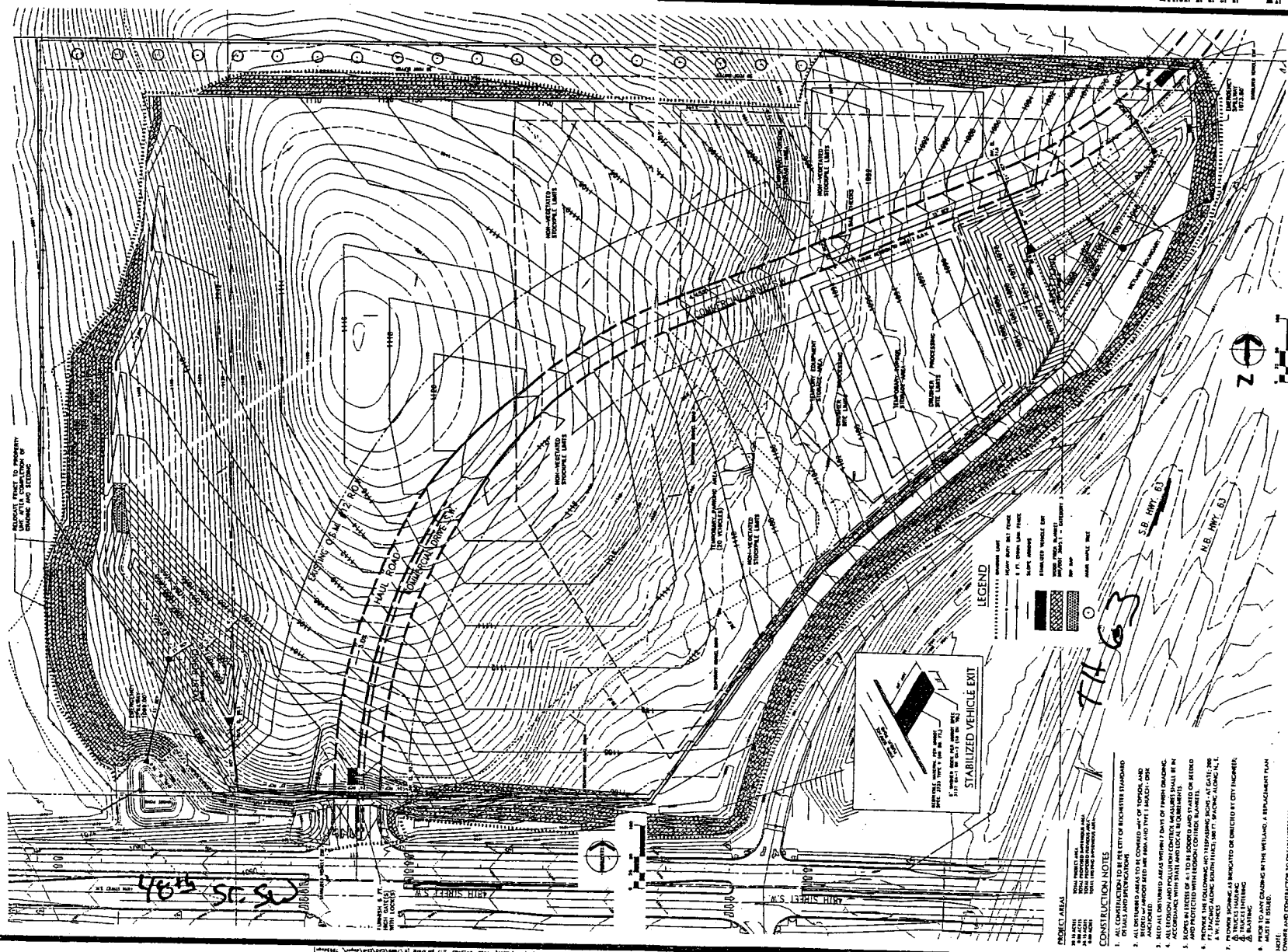
1. *If the Council wishes to proceed, it should instruct the City Attorney to prepare a resolution either approving, approving with conditions, or denying the Conditional Use Permit request based upon the criteria included in the staff report (62.1105, 61.146).*

Attachments:

1. Staff Report dated July 17, 2003
2. Minutes of the July 23, 2003 CPZC Meeting (attached to the LUPA RCA)

Distribution:

1. City Administrator
2. City Attorney: Legal Description Attached
3. Planning Department File
4. Applicant: This item will be considered sometime after 7:00 p.m. on Monday, August 18, 2003 in the Council/Board Chambers at the Government Center, 151 4th Street SE
5. Yaggy Colby Associates



WEST 80 DEVELOPMENT
ROCHESTER, MINNESOTA



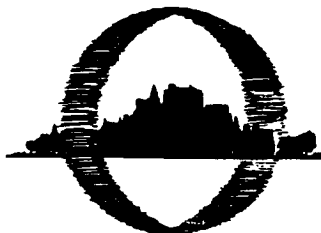
WEST 80 DEVELOPMENT
ROCHESTER, MINNESOTA
GRADING PLAN

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JUN 25 2003
ROCHESTER OLIMSTED
PLANNING DEPARTMENT

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209

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ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF
Olmsted

www.olmstedcounty.com/planning



TO: City Planning & Zoning Commission

FROM: Brent Svenby, Planner

DATE: July 17, 2003

RE: Type III, Phase II Conditional Use Permit request #02-46, by West 80 Development, LLC. The applicant is requesting approval for an excavation permit to operate a Quarry on property located north of 48th St. SW and west of T.H. 63. The applicant proposes to lower the existing hill on the property by approximately 60 feet and to export over 800,000 cubic yards of material within two to nine years.

Planning Department Review:

Applicant: West 80 Development
Attn: Roger Carlson
4410 19th Street NW
Rochester, MN 55901

Engineer/Consultant: Yaggy Colby Associates
717 Third Ave. SE
Rochester, MN 55904

Requested Action: The applicant is requesting a Type III, Phase II Conditional Use Permit to permit a Quarry in the M-1 (Mixed Commercial-Industrial) District.

Location of Property: The property is located north of 48th St. SW, west of TH 63 and east of Willow Creek.

Zoning: M-1 (Mixed Commercial-Industrial). Petitions are being considered concurrent with this application to re-zone 3.02 acres along the western portion of the property from R-2 to M-1.

Referral Comments:

1. Rochester Public Works
2. MN DOT
3. John Harford, Wetlands LGU

Standards for Approval: Excavation activities in the M-1 (Mixed Commercial) district require a Type III, Phase II Conditional Use Permit and are regulated by Section 62.1100 *et seq.* of the Rochester Zoning Ordinance and Land Development Manual. Conditional Uses for Excavation are also subject meeting the standards of 61.146 and some additional standards specific to Excavation found in Section 62.1105. Operation/performance standards for quarries are found in Section 62.1107.



212

Report Attachments:

1. Excerpts from the Rochester Zoning Ordinance and Land Development Manual
2. Application Map/Plan
3. Referral Comments

SUMMARY OF PROPOSAL:

The applicant is requesting an Excavation permit to operate a Quarry on property located north of 48th St. SW, west of TH 63 and east of Willow Creek. Interchanges are planned to be constructed at TH 63 and 40th Street and at 48th Street south. The Official Street Map (#12) identifying the needed right-of-way for the interchange also identifies a future north/south collector road west of TH 63 through the applicant's property. Though the property includes significant topographic relief, the landscape will be altered substantially by the public improvements planned on and adjacent to the site.

The applicant lists the following reasons for this application:

- To be in a position to offer earth materials to the contractor(s) to provide significant fill quantities required for the pending MnDOT project (TH 63 , 48th and 40th St. interchanges)
- To provide preliminary grading for the future extension of Commercial Drive SW through the site
- To provide finished site grading compatible with the adjacent MnDOT improvements, Commercial Drive SW extension and proposed on-site development
- To provide material to other construction and reconstruction projects in the area. This material would be hauled off-site and stockpiled or sold to potential buyers.

The amount of excavation proposed is primarily to provide fill material for the MnDOT TH 63 and 40th and 48th Street Interchange project. Timing of excavation would coincide with the construction project, scheduled to begin in 2003 but could possibly operate up to nine (9) years.

The applicant proposes completing excavation within a two (2) to nine (9) year period. Over 800,000 cubic yards of material will be exported from the site. Excavation would result in changing grades by as much as 60 vertical feet. An exposed bedrock wall, approximately 30' high, would be located along the northwesterly boundary of the excavation and will be visible from 48th Street looking north. Hours of operation would be from 7:00 AM to 10:00 PM Monday-Friday and on Saturday as needed. Please see the attached narrative report for more details.

The primary road utilized for the materials removed from the site would be 48th Street to TH 63 or Bridget Road. A secondary haul road would be across the abutting property to the north to 40th Street. Permission from the abutting property owner would be required as well as possible approval from the City. The future roadway, indicated as Commercial Drive SW, which transverses the site would be used as the haul road for the proposal. The alignment for this roadway at the northern end of the property doesn't follow the Official Street Map #12. The applicant is proposing that Official Street Map #12 should be amended to follow that alignment shown on the grading plan. The applicant is obligated for the cost to amend the Official Street Map #12 to accommodate this layout.

Variance:

LDM Section# - Reference:	Ordinance Requirement:	Applicant Request/Proposal:	Notes:
62.1007, 1, j	500' setback to adj. Property zoned residential for	Won't meet this setback to the west and southwest	MnDOT owns property to the west. Property to the Southwest is owned by

213

	excavation area with an elevation change of greater than 10 feet		the City of Rochester
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Variance requests are subject to findings identified in Section 60.417.

The Planning staff suggested findings to Section 60.417 are (see attached excerpt from the LDM):

EXCEPTIONAL CIRCUMSTANCES: *There are no residential dwellings as land uses that directly about this property to the west. The property to the west is mostly in the floodway or floodplain so limited residential development could occur within this area. The property to the southwest is zoned R-1 and is owned by the City of Rochester and is developed as a park. The nearest dwelling is approximately 1,200 feet from the limits of the excavation activity included in this petition.*

REASONABLE USE: *Most of the property to the west is in the Floodway. Use of the property is very limited due to the Floodway designation of the property. Property to the southwest is developed as a city park. Though Variances may not be required to permit the reasonable use of the property involved, granting of the Variances would provide reasonable use of the site for extraction of the granular material resource.*

ABSENCE OF DETRIMENT: *The granting of this variance request does not appear to be materially detrimental to the public welfare or to other property in the area. The residential property to the west and southwest contains no residential dwellings it's mostly in the floodway or floodplain or developed as a city park so limited development could occur on the property. The property to the west has been purchased by MnDOT to be used as wetland replacement areas for the TH 63 project.*

MINIMUM VARIANCE: *The minimum variances that would be necessary to alleviate the alleged hardship would be a variance to the required minimum setback for an excavation area with an elevation change of greater than 10 feet to residentially zoned property. This finding would not pertain in the case of denial.*

The LDM requires that "During the excavation activity, a minimum bufferyard of 50 feet shall be maintained adjacent to all property boundaries and all existing rights of way and any proposed rights of way for roadways included in the Long Range Transportation Plan or for which an official map has been prepared" and "An excavation activity may be conducted closer than 50 feet from an adjacent to platted or planned road right-of-way as identified on the Long Range Transportation Plan, only if approved by the City Engineer and by the appropriate road authority."

This application proposes excavation activities and haul roads which encroach into the proposed right-of-way as shown on Official Street Map #12. MnDOT stated in their comments that "presently a permit request is being reviewed within the District, which suggest alteration to the approved 48th Street Interchange Plans". Discussions with the Rochester Public Works Department reveal that the proposed excavation and grading plan can easily comply with the proposed grades for the street infrastructure contemplated by Official Street Map (OSM) #12. Encroachment into the setback area should not be of concern as long as OSM #12 is amended and the grading reclamation grades match the proposed reconstructed grade elevations of the TH 63 ramp and 48th St. SW profile and cross-sections as specified on the approved OSM and the TH 63 Layout Plan.

214

REVIEW PROCEDURES:

The Rochester Zoning Ordinance and Land Development Manual has been amended since the 1996 and 1997 applications, to include comprehensive regulations related to excavation activities. Excavation activities in the M-1 (Mixed Commercial) district require a Type III, Phase II Conditional Use Permit and are regulated by Section 62.1100 *et seq.* of the Rochester Zoning Ordinance and Land Development Manual. Conditional Uses for Excavation are also subject meeting the standards of 61.146 and some additional standards specific to Excavation found in Section 62.1105. A portion of this property also lies within the Shoreland District however no grading activity is proposed within the Shoreland District.

CRITERIA & RECOMMENDATION:

Excavation activities in the M-1 (Mixed Commercial) district require a Type III, Phase II Conditional Use Permit and are regulated by Section 62.1100 *et seq.* of the Rochester Zoning Ordinance and Land Development Manual. Conditional Uses for Excavation are also subject meeting the standards of 61.146 and some additional standards specific to Quarries found in Section 62.1105.

Recommendation:

Staff does support approval of the variance request.

If the Commission wishes to proceed with this application, the Commission and Council could make findings in support of the application consistent Rochester Zoning Ordinance and Land Development Manual (see attached) Sections 62.1105 and 61.146, if the following conditions or modifications are imposed:

- 1. Prior to excavation, the applicant shall:***
 - Provide the City with a financial security consistent with Section 62.1107, 1, h of the Rochester Zoning Ordinance and Land Development Manual;***
 - Grading, Drainage and Erosion Control Plans must be approved by the City;***
 - The applicant shall submit a Blasting Plan to the City, in compliance with Section 62.1107, 1), m), prior to beginning the excavation;***
 - A bond or other form of surety acceptable to the City Attorney shall be provided in an amount determined by the City Engineer sufficient to carry out the restoration of the mined area, and to control dust on haul roads if not adequately handled by the Applicant. Said surety is to be used by the City for restoration of the sit, and/or dust control measures, in the event the Owner fails to fulfill its obligations regarding restoration and/or dust control.***
 - Submit a revised reclamation plan that has the required plantings all within the applicant's property (some plantings are shown on land owned by MnDOT) as well as identify adequate vehicular access to the proposed stormwater detention ponds. The plan shall also be consistent with the roadway alignment approved with the GDP.***
- 2. Encroachment into the setback area is approved as long as the grading reclamation grades match the proposed reconstructed grade elevations of the TH 63 ramp and 48th St. SW profile and cross-sections as specified on the approved OSM and the TH 63 Layout Plan.***

3. *The reclamation/restoration grades shall match the proposed reconstructed grade elevations of TH 63 and ramp, and the 48th ST. SW profile and cross-sections as specified on the City approved Official Street Map #12, and the TH 63 Layout Plan.*
4. *The applicant shall execute a contribution agreement to address the Owner's obligations regarding Substandard Street Reconstruction charges for the frontage of 48th Street SW. In addition, the Agreement will include the Owner's obligations regarding the Capacity Component of the Transportation Improvement District charges that will be applicable to the development of individual lots within the industrial/commercial subdivision that will be developed once the mining activity is complete.*
5. *A TIR shall be completed, if it differs from the land use and trip generation assumptions used in the TH 63 Traffic Study, to evaluate the impacts on the surrounding roadway, specifically TH 63 and 48th Street. Traffic improvements, including but not limited to, turn lanes, signage and warning lights at the proposed haul road access point to 48th St. SW.*
6. *Stormwater Management must be provided on-site via City approved on-site stormwater detention facilities. Adequate vehicular access shall be provided to the proposed stormwater detention ponds.*
7. *The applicant shall obtain approval of the haul road and temporary access permit for 48th Street SW from the Public Works Department prior to grading activities on the property. Evidence shall be provided that the applicant has rights across the property to the north. The applicant would also need to obtain a temporary access permit for the use of 40th Street SW from the Public Works Department.*
8. *The applicant is obligated for the cost to amend Official Street Map #12 to accommodate the alignment shown on the grading plan.*
9. *Approval of this permit is contingent upon the applicant obtaining a permit from MnDOT to work within the right-of-way and the alterations to the approved 48th Street Interchange Plans.*
10. *Approval of this permit is contingent upon the applicant obtaining a Wetland Replacement Plan for the wetlands being disturbed on property. Replacement plan approval shall be obtained prior to any grading activity occurring on the property.*
11. *Approval of this permit shall expire December 1, 2012, unless permit approval is extended as provided in Section 62.1110, 7 of the Rochester Zoning Ordinance and Land Development Manual. All reclamation activities must be complete prior to the date of expiration, consistent with reclamation standards of the Rochester Zoning Ordinance and Land Development Manual.*

214

EXCERPTS FROM THE ROCHESTER ZONING ORDINANCE AND LAND DEVELOPMENT MANUAL

60.417 **Findings for Variances:** In taking action on a variance request, the approval authority shall make findings supporting the decision based on the following guidelines:

- 1) The approval authority may grant a variance to the provisions of this ordinance if it finds that:
 - a) there are extraordinary conditions or circumstances, such as irregularity, narrowness, or shallowness of the lot or exceptional topographical or physical conditions which are peculiar to the property and do not apply to other lands within the neighborhood or the same class of zoning district; and
 - b) the variance is necessary to permit the reasonable use of the property involved; and
 - c) the variance will not be materially detrimental to the public welfare or materially injurious to other property in the area, is in harmony with the general purpose and intent of this ordinance, and will not adversely affect implementation of the Comprehensive Plan; and
 - d) the variance as granted is the minimum necessary to provide reasonable economic use of the property.

The extraordinary conditions or circumstances shall be found not to be the result of an action by the applicant or property owners who have control of the property.

In addition, the approval authority shall find that development of the parcel in question cannot be integrated with development of adjacent parcels under the same ownership in such a manner so as to provide for the reasonable economic use of the total site in a manner consistent with the provisions of this ordinance.

- 2) The Board may grant a variance to the literal provisions of this ordinance if it finds that:
 - a) there has been substantial and detrimental reliance in good faith by an applicant who has received a permit or certificate issued in error by the administrative official charged with enforcement of this ordinance, and
 - b) the mistaken issuance of the certificate or permit is not the result of an action on the part of the applicant, the property owner, or any other person or party who has had control of the property, to provide misleading or incorrect information, or to knowingly withhold information necessary for the administrative official to accurately review the permit or certificate request.
- 3) The Board shall under no circumstances grant a variance that will allow a use otherwise not permitted within the zoning district or any variance of the elevation or levels for flood protection.
- 4) In granting a variance, the zoning administrator or the Board may impose such reasonable and appropriate conditions and safeguards as may be necessary to accomplish, to the extent possible under the circumstances, the purposes of the regulations or provisions which are to be varied or modified and to reduce or minimize potentially injurious effects of the variance upon adjoining properties, the character of the neighborhood, and the health, safety, or general welfare of the community. A variance and any conditions and safeguards which were made a part of the terms under which the variance was granted are binding upon the applicant and any subsequent purchaser, heir, or assign of the property, and any violation of a variance or its conditions and safeguards shall be a violation of this ordinance and punishable as such.

61.146 **Standards for Conditional Uses:** The zoning administrator, Commission, or Council shall approve a development permit authorizing a conditional use unless one or more of the following findings with respect to the proposed development is made:

- 1) provisions for vehicular loading, unloading, parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create hazards to safety, or will impose a significant burden upon public facilities.
- 2) The intensity, location, operation, or height of proposed buildings and structures will be detrimental to other private development in the neighborhood or will impose undue burdens on the sewers, sanitary and storm drains, water or similar public facilities.
- 3) The provision for on-site bufferyards and landscaping does not provide adequate protection to neighboring properties from detrimental features of the development.
- 4) The site plan fails to provide for the soil erosion and drainage problems that may be created by the development.
- 5) The provisions for exterior lighting create undue hazards to motorists traveling on adjacent public streets or are inadequate for the safety of occupants or users of the site or such provisions damage the value and diminish the usability of adjacent properties.
- 6) The proposed development will create undue fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles.
- 7) In cases where a Phase I plan has been approved, there is a substantial change in the Phase II site plan from the approved Phase I site plan, such that the revised plans will not meet the standards provided by this paragraph.
- 8) The proposed conditional use does not comply with all the standards applying to permitted uses within the underlying zoning district, or with standards specifically applicable to the type of conditional use under consideration, or with specific ordinance standards dealing with matters such as signs which are part of the proposed development, and a variance to allow such deviation has not been secured by the applicant.

**61.1105 FINDINGS NECESSARY FOR ISSUANCE OF CONDITIONAL USE PERMITS
(for Excavation Activities):**

The City shall approve a conditional use permit authorizing an excavation activity only if all of the following findings with respect to the proposed activity are made, in addition to those listed in Section 61.146:

- 1) The activity will not result in a danger to life or property due to (1) steep or unstable slopes, (2) unsafe access to the property, (3) excessive traffic, or (4) proximity to existing or planned residential areas, parks and roadways;
- 2) Visual, noise, dust, and/or excessive on- or off-site environmental impacts on public parks, roadways and residential areas can be adequately mitigated by the Applicant and a fully detailed plan is submitted by the Applicant to demonstrate the mitigation methods to be used, the cost of such mitigation, the source of funds for such mitigation, and adequate legal assurance that all of such mitigation activities are carried out;
- 3) The use of trucks and heavy equipment will not adversely impact the safety and maintenance of public roads providing access to the site, or such impacts will be mitigated;

218

- 4) The proposed use will not adversely affect air quality or ground water or surface water quality;
- 5) The proposed use will not adversely affect the scenic quality of Rochester or the natural landscapes, environment, wildlife and wildlife habitat; or if such effects are anticipated to occur, the reclamation plan provides for adequate restoration of the site following completion of the excavation activity;
- 6) The activity will be compatible with existing development and development anticipated in the future, including other uses as shown in the Comprehensive Plan, including but not limited to: patterns of land use, recreational uses, existing or planned development, public facilities, open space resources and other natural resources;
- 7) The activity will not unduly affect the use and enjoyment of adjacent properties;
- 8) The site plan provides for adequate buffers and screening year-round from unsightly features of the excavation operation;
- 9) The reclamation plan provides for adequate and appropriate restoration and stabilization of cut and fill areas;
- 10) The excavation activity will not result in negative impacts on drainage patterns or stormwater management facilities;
- 11) The proposed activity will minimize impacts on sinkholes, wetlands and other natural features affecting ground water or surface water quality;
- 12) The intensity and the anticipated duration of the proposed excavation activity is appropriate for the size and location of the activity;
- 13) Permanent and interim erosion and sediment control plans have been approved by the City;
- 14) Surety has been provided that guarantees the site will be fully restored, after completion of the excavation activity, to a safe condition, and one that permits reuse of the site in a manner compatible with the Comprehensive Plan, neighborhood plans, the Land Use Plan and applicable City policies.
- 15) The proposed activity complies with the requirements of the adopted building code.

ROCHESTER

— Minnesota —

219

TO: Consolidated Planning Department
2122 Campus Drive SE
Rochester, MN 55904

DEPARTMENT OF PUBLIC
WORKS
201 4th Street SE Room 108
Rochester, MN 55904-3740
507-287-7800
FAX – 507-281-6216

FROM: Mark E. Baker

DATE: **REVISED 7/18/03 modified #15**

Public Works has reviewed the requested Conditional Use Permit #02-46 by West 80 Development. The following are Public Works comments on this request from 9/13/02. New comments based on plan revisions are indicated in **BOLD** while comments that have been addressed, and/or are no longer applicable are indicated with ~~STRIKETHROUGH~~:

1. Grading, Drainage and Erosion Control Plans must be approved prior to commencement of any grading and/or mining activity on this property.
2. The Owner should be required to match the abutting property line grades unless other documented arrangements are made with the abutting landowner and approved by the City on the grading plan
3. Stormwater Management must be provided on-site, **via City approved on-site stormwater detention facilities**. And any changes to pre-existing drainage patterns to the abutting properties must be addressed **through the grading & drainage plan approval process**.
4. ~~The Erosion Control measures currently proposed on the plan are inadequate for the proposed activity.~~
5. The restoration grades shall be match the proposed reconstructed grade elevations of T.H. 63 and ramp, and 48th St SW profile and cross-sections as specified on the City approved Official Map #12 and the T.H. 63 Layout Plan.
6. Execution of a Contribution Agreement is required to address the Owner's obligations regarding Substandard Street Reconstruction charges for the frontage of 48th St SW. In addition, the Agreement will include the Owner's obligations regarding the Capacity Component of the Transportation Improvement District charges that will be applicable to the development of individual lots within the industrial subdivision that will be developed once the mining activity is complete.
7. A TIR is required to evaluate the impact on the surrounding roadways, specifically TH63 & 48th St SW. Traffic improvements, including, but not limited to turn-lanes, signage & warning lights at the proposed haul road access point to 48th St SW.
8. Haul road design and temporary access permit for 48th St SW must be approved by Public Works Department

220

ROCHESTER

— Minnesota —

TO: Consolidated Planning Department
2122 Campus Drive SE
Rochester, MN 55904

DEPARTMENT OF PUBLIC
WORKS
201 4th Street SE Room 108
Rochester, MN 55904-3740
507-287-7800
FAX – 507-281-6216

FROM: Mark E. Baker

9. There is a stabilized vehicle exit indicated at the northerly extent of the proposed Commercial Dr SW. This exit point abuts private property. The Owner should provide evidence that it has acquired rights across the abutting property, as well as, explain the intended use for this exit.
- ~~10. There is an existing public trunk sewer that runs across the east line of this property that was installed in the early 1970's. Although the City has prescriptive rights, no formal easement has been dedicated. Prior to CUP approval, dedication of a 30 foot wide public utility easement is required for the existing trunkline sanitary sewer.~~
- ~~11. The applicant should be required to dedicate the right of way for 48th St SW and T.H. 63, as indicated on the GDP, as part of the CUP approval process.~~
12. A bond or other form of surety acceptable to the City Attorney shall be provided in an amount determined by the City Engineer sufficient to carry out the restoration of the mined area, and to control dust on haul roads if not adequately handled by the Applicant. Said surety is to be used by the City for restoration of the site, and/or dust control measures, in the event the Owner fails to fulfill its obligations regarding restoration and/or dust control.
13. The site reclamation plan indicates required trees plantings located within the slopes of the two proposed ponds. It appears that access for maintenance to the northeasterly pond could be impacted by the proposed planting locations. The applicant should be required to identify adequate vehicular access to this pond structure for future maintenance.
14. The applicant is obligated for the cost to amend Official Map #12, to accommodate the applicant's desired site layout .
15. Public Works has been informed by MnDOT that the existing trunkline sanitary sewer in the T.H. 63 ROW abutting this property will need to be relocated and can not remain within the ROW. This sanitary sewer provides direct service and benefit to the property and the Owner shall dedicate a 30 foot wide public utility easement along the easterly line of the Property, concurrent with CUP approval, to accommodate the trunkline sanitary sewer relocation. The applicant should indicate how it intends to address the extra depth that will result based on the applicant's plan to place fill over the easement area.



Minnesota Department of Transportation

Minnesota Department of Transportation - District 6

Mail Stop 060
2900 48th Street N.W.
Rochester, MN 55901-5848

Office Tel: 507-280-2913

Fax: 507-285-7355

E-mail: dale.maul@dot.state.mn.us

July 10, 2003

Jennifer Garness
Rochester Olmsted Planning Department
2122 Campus Drive SE - Suite 100
Rochester, MN 55904

Re: Type III, Phase II Conditional Use Permit (CUP) request #02-46, by West 80 Development, LLC. The applicant is requesting approval for an excavation permit to operate a Quarry on property located north of 48th St. SW and west of US Highway 63.

Amendment to General Development Plan (GDP) #159 West 80 Development (formally known as 48th St GDP) by West 80 Development LLC.

Land Use Plan Amendment Petition #02-03 and Zoning District Amendment #02-11 by West 80 Development, LLC to amend the Land Use Plan designation from "Low Density Residential" to the Mixed Commercial-Industrial district on approximately 3.02 acres of land. The property is located north of 48th St. SW, west of US Highway 63 South and east of 11th Ave.

Dear Ms. Garness:

The Minnesota Department of Transportation (Mn/DOT) has reviewed the above proposals by West 80 Development, LLC.

Presently a permit request is being reviewed within the District, which suggests alterations to the approved 48th Street Interchange Plans. This permit request includes fill along the backslope of the proposed Interchange Ramp, creating a significant change in elevation where Utilities and Sewer installation are proposed. Coordination is needed between Mn/DOT's Construction Engineer, Paul Schauer, Mn/DOT's Permits Regulation Supervisor, Lee Gierok, West 80 Development LLC and the City of Rochester to ensure the proper placement of Utilities and Sewer. Additional information may be requested.

For any additional questions you may contact the Planning Office's Principal Planner, Fred Sandal, at (507) 285-7369 or the Plan and Plat Coordinator, Debbie Persoon-Bement, at (507) 281-7777.

Sincerely,

A handwritten signature in cursive script, reading 'Dale E. Maul'.

Dale E. Maul
Planning Director

222

WETLAND COMMENTS FOR DEVELOPMENT APPLICATIONS

Application Number: Land Use Plan Amendment #02-03, Conditional Use Permit #02-46 and GDP #159, West 80 Development

- ☐ No hydric soils exist on the site based on the Soil Survey
- ☒ Hydric soils exist on the site according to the Soil Survey. The property owner is responsible for identifying wetlands on the property and submitting the information as part of this application.
- ☐ A wetland delineation has been carried out for the property and is on file with the Planning Department.
- ☐ A wetland delineation is on file with the Planning Department and a No-Loss, Exemption, or Replacement Plan has been submitted to the Planning Department.
- ☐ A wetland related application has been approved by the City. This plan incorporates the approved wetland plan.
- ☐ No hydric soils exist on the property based on the Soil Survey. However, due to the location in the landscape, the property owner should examine the site for wetlands. The property owner is responsible for identifying wetlands.
- ☒ Other or Explanation:

The applicant will need to submit a wetland replacment plan given the proposal to construct a road and stormwater pond in the area that is a propabale wetland.



August 28, 2002

Ms. Mitzi Baker
Rochester-Olmsted Planning Department
2122 Campus Drive SE, Suite 100
Rochester, MN 55904

**RE: Variance Requests
West 80 Development General Development Plan &
Conditional Use Permit**

Dear Mitzi:

West 80 Development, LLC, requests the approval of a variance under Section 60.410 for setback obligation for a Quarry Permit under Section 62.1107 j) requiring a setback from a residentially zoned property.

This development is also in the review process for a General Development Plan Amendment (GDP), a zone change and Land Use Plan amendment of 3.02 acres from the R-2 to an M-1 zoning, and a Conditional Use Permit for a quarry operation. The quarry permit is required because of the amount of material to be exported from the site. We also request that Official Street Map #12 be amended based upon the proposed GDP.

This Official Street Map #12 currently identifies 240 feet of right-of-way for Commercial Drive through the hill on the property. This amount of right-of-way, for a collector street (typically 70 to 80 feet of right-of-way), was designated because of the amount of side-slope that would be remaining if the hill were only excavated for the street. The horizontal and vertical curves required on a collector street require substantial cut on the property. This situation would leave the properties on either side of the street undevelopable as useable access could not be provided on the slopes that would remain. The access spacing needed between the Commercial Drive and 48th Street SW intersection and the off-ramps intersecting with 48th Street SW also controls the location of Commercial Drive causing this street to be through the middle of the hill. On the GDP we are proposing 120 feet of right-of-way initially off of 48th Street SW to allow for a median and an additional lane then tapering to 80 feet.

Because of the official planned location of Commercial Drive and the impact its construction will have on the hill and the adjacent lots, a variance is required in order to do the necessary excavation. The ordinance requires a 500 foot setback from property zoned residential to any excavation area with an elevation change of greater than 10 feet. There are two properties that are zoned residential that are within 500 feet of the proposed grading that will need to take place for the street and the lots to be graded. The first is on the West 80 property and is the westerly portion of the property that is being purchased by the Minnesota Department of Transportation (MNDOT). The second property zoned residential within the 500 foot setback is Outlot B of Southern Woods First Subdivision in the southeast corner of the intersection of 48th Street SW and 11th Avenue SW. This outlot is southwest of the excavation area and is also undeveloped.

ROCHESTER OFFICE:

717 Third Avenue SE

Rochester, MN 55904

507-288-6464

Fax 507-288-5058

MASON CITY OFFICE:

641-424-6344

DELAFIELD OFFICE:

262-646-6855

224
Ms. Mitzi Baker

August 28, 2002

Page 2

Per Section 60.417 paragraph 1 the findings we propose are:

- a) There appear to be exceptional circumstances or conditions that apply to the applicant's property that may not apply generally to other properties in the same zoning district. The Official Street Map #12 and MNDOT plans require Commercial Drive SW to substantially impact the existing hill in order to meet city and state design standards. The street, in the location required, could not be constructed without the variance.
- b) The granting of this variance request would appear to be necessary to allow for the reasonable use of the applicant's property. A frontage road access to 48th Street SW would not be possible and development of this property would be limited.
- c) The granting of this variance request would not appear to be materially detrimental to the public welfare or to other property owners in the area.
- d) The minimum variances that would be necessary to alleviate the alleged hardship would be a variance to the 500 foot setback from a residentially zoned area as specified.

Please call if you have any questions or concerns.

Sincerely,

YAGGY COLBY ASSOCIATES

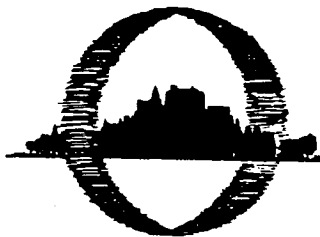


Wade DuMond, ASLA

WD

YCA #7869 LD2

cc: Roger Carlsen
Frank Kottschade



ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF
Olmsted

www.olmstedcounty.com/planning



DATE: July 23, 2003
TO: City Planning and Zoning Commission
FROM: Brent Svenby, Planner
RE: General Development Plan #159 and Conditional Use Permit #02-46

After speaking with the applicant's consultant today, staff would recommend the following changes to the recommended conditions.

GDP #159:

7 Access control shall be dedicated along the entire frontage of TH 63 and 48th Street SW at the time of platting, except for the access opening along 48th Street SW for Commercial Drive SW. Access control shall also be platted along the frontage of Commercial Drive SW, at the time of platting, except where access openings are approved.

CUP #02-46:

1 Drop the first bullet

9 Add the following sentence: If the permit is not approved by MnDOT, the applicant shall submit a revised plan to the Planning Department and Public Works Department for approval.

#10 Add the following sentence: If the Replacement Plan is not approved by the Local Government Unit, the applicant shall revised the grading plan to avoid the wetland area.

Please add the following condition to CUP #02-46, West 80 Development:

- The owners shall dedicate a 30-foot wide public utility easement along the easterly line of the property, concurrent with the approval of the CUP, to accommodate the trunkline sanitary sewer relocation. The owner shall address, prior to any grading activity occurring on the property, the extra depth that will result based on the plan to place fill in the easement area.



224